This was the substance of Mr. Smith's story on the direct examination. When Mr. Delmas took him in hand he said that he had told his lawyer, Mr. Blackwell, that Thaw was drunk when he saw him on the roof of the Garden. Mr. Jerome made onjection to this question and Mr. Delmas and not pursue this line of inquiry. Evidently he had no desire to have it proved that Thaw was drunk when the shooting took place.

Mr. Smith gave his testimony in a clear, direct manner, as if he had nothing whatever to conceal and only the truth to tell, and everything that he said was audible to everybody in court. His testimony appeared to be worth all the trouble Mr. Jerome took to obtain it

Seeking to Fix a Date

In the afternoon Mr. Jerome made vain effort to establish an alibi for Stanford White with reference to the night when Evelyn Nesbit Thaw testified that she was ravished by the architect in the West Twenty-fourth street apartment. It will be recalled that she testified that while she could not fix the exact date of that night it was the night after certain photographs had been taken of her at Mr. White's East Twenty-second street studio by a photographer named Rudolph Eickemeyer. Mr. Jerome called Mr. Eickemeyer to the witness stand to identify the negatives of those photographs. But the attempt failed. Justice FitzGerald ruling that it was not allowable to introduce any testimony to controvert the truth of any part of Evelyn Neshit Thaw's story except her statement that she told all those things to

The same fate met the District Attorney attempt to get Dr. Carlton T. Flint to state whether Evelyn Nesbit had ever come to his office in company with Jack Barrymore, the actor. Dr. Flint is the doctor whom Mr. Jerome called into court after young Mrs. Thaw had testified that she had never visited his office. When confronted with him she still insisted that she had never seen him before.

But though Mr. Jerome could not get mon the record any testimony controverting the story that Evelyn Nesbit Thaw fold, the impression produced upon the minds of the spectators and by inference pon the minds of the jury was that he expected that such testimony would have en given if his witnesses had been allowed to tell what they knew. Mr. Jerome called attention to the fact that days ago Mr. Delmas had said that the defence would willingly waive all its rights to prevent inquiry into the truth of Evelyn Nesbit

The obvious rejoinder for Mr. Delmas to make was that Mr. Jerome at that time had said that even if the defence waived the rights in the matter the rules of evidence would not permit the prosecution to controwert Mrs. Thaw's story, but he didn't say anything of the kind. He merely said that the Court had all along ruled against anything of the sort and he stood upon his objection, which the Court promptly main-

A MORNING OF ARGUMENT. Gerome Wins His Point About Admitting

Smith's Testimony James Clinch Smith, brother-in-law stanford White, did not appear when his name was called by Court Clerk Penney at the opening of the morning session of ourt, but arrived in the court room about seven minutes after the time he was due here. As matters turned out, it wouldn't have made any difference if he hadn't apared at all, for he wasn't allowed to

testify until the afternoon session. It was a morning of talk, talk, talk, and the fact that most of it was important talk didn't serve to rivet the attention of the stators all the time. The rapid word opened up as soon as Justice FitzGerald had taken his seat. Mr. Jerome had found a lot of precedents for such action as he fished the Court to take in admitting the even though the prosecution had rested direct case, and had submitted them the Court before court opened. Mr. nas said that he would like to hear what bey were in order that he might make

each counter showing as was permissible. Mr. Jerome said that he and Mr. Hartridge had talked the matter over and that were substantially agreed upon cern facts that were to go on the record. will say to you now," declared Mr. mas, jumping up, "that in dealing with matter whatever is discussed in court be between you and me."

"I don't know whether it will or not," retorted the District Attorney. "Mr. Hartinge is attorney of record in this case." There was more squabbling about this and then the District Attorney went on to state what he understood to be the facts about the absence of Mr. Smith from this country until February 17 and how it was that the prosecution had not been able to get his testimony before. All those things were related in court on the day before, with the exception of the fact that Mr. Smith had not gone to France to avoid appearing as a witness, but because large business as a witness, but because large business interests had demanded his presence there. As soon as he learned that Mr. Smith knew ertain things that would be important as evidence in the case, the District Attorney said, he had asked Mr. Smith's attorneys to cable him, asking him to return on the first steamer and he had done so. But by the time he had arrived here the People had

Legal Hairsplitting.

"Now, under those circumstances, these being the grounds," added Mr. Jerome, "I ask the exercise of your Honor's dis-cretion, and I would like to present the legal basis of my application to appear upon the record."

"Am I to understand that what you have said so far does not form a part of the rea-sons?" asked Mr. Delmas. This appeared to analy the District Attorney, for he analysised:

"I am not, perhaps, so expert in the use the English language as Mr. Delmas, to

whom my language is not always clear. I regret that I have not used it with clearness and accuracy. My years of experience are less, but I did not mean in any way to deceive or mislead him. I meant the aunorities and statutes in such cases, made

The California lawyer hastened to say that he did not mean to impute to Mr. Jerome any intention of deceit or any improper motives, and Mr. Jerome said: "I spoke more in sorrow than in anger, it. Delmas." He then went on to amplify his statement of the facts in the case. When he got through Mr. Delmas said he wanted to brief recess while he conferred with his associates to see if they had any corrections of this statement to real. tions of this statement to make. After the recess he made a few minor corrections, to which Mr. Jerome assented, and then the District Attorney quoted his authorities. and precedents. They were many. When he had finished this he said: "Now, I submit, sir, in view of these autherities and in the interests of

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ascertained to enable this jury to obey its oath that the discretion of your Honor should be exercised in admitting this testimony. It would be improper for me to state before this jury what this testimony is, but I can assure your Honor that in my on incomit it is highly important not only on pinion it is highly important, not only on but also on those elements which go to make up a case of murder in its first degree as defined by the statutes." Then the Court

took a hand, saying:
"I understand the ground to be that the
witness was not within the jurisdiction of the court. Another ground is that the facts communicated to the District Attorney by this witness on his return from France were not in the possession of the District Attorney's office when the witness left this country or when the people rested their case." After further argument Mr. Delmas shot his last bolt by saying:

"Your Honor is now familiar with all the If your Honor shall decide in the exercise of your enlightened humane judfcial, discretion that it is proper that this course shall be pursued that rule will be acquiesced in by the defence. But we appeal to your Honor not to exercise that discretion if there exists any doubt at all against the defendant, for the humanity I the law is that all doubts shall be resolved

Jerome Wins His Point

All the argument being over, Justice Fitz-Gerald decided in the District Attorney's favor. He said' favor. He said'
"The Court is bound to assume that the

The Court is bound to assume that the statements made by the District Attorney were made under the responsibility of his office with the realization of the fact in the Court's mind of the responsibility of the officer making them. In view of his state-ments that the witness was outside of the jurisdiction of the court, and that the facts egarding which he is now undertaking to introduce this testimony in evidence were absolutely and entirely unknown to him, Court understands its duty to be, in he furtherance of justice, to overrule the

being then near the time for the noon recess Mr. Jerome decided not to call Smith at that time, as it was thought better not to interrupt his testimony when once it had been begun. Consequently Rounds-man Edward F. Howe was called to the Cenderloin station at the time Stanford White was shot and that he accompanied Policeman Wright to the station with Thaw. He arraigned him before the sergeant at station house.

Q. As you were searching him what did you say to the defendant and what did the efendant say to you? A. I said to the de-"So you did some shooting?" and e answered: the party you fired at?" and he said: "Yes, I think I did." I said: "Was it a man or was a woman?" and he said: "It was a man

Rational, Says Another Policeman. O. Then, from the conversation that you

anner, was the defendant in your opinion time rational or irrational? seemed rational to me That was all Mr. Jerome was allowed to get out of the witness and Mr. Delmas took up his cross-examination.

statement to any one about this matter About two weeks after the event. Q. And by whom were you called. A. One the Assistant District Attorneys, Mr. Turnbull, I think.

Q. And how did you come to go there: What induced you? A. I received an order on a form similar to a subposna.

(). It was not a subposna? A. No, sir. It was the same as a subpoena, but different, equesting me to appear. The witness said that he made to Mr

Turnbull subtrantially the same state-ment that he had just made in court—about ment that he had just made in court—about Thaw's appearance and talk and so on.
Mr. Jerome then called Dr. Carlton T. Flint. When Evelyn Nesbit Thaw was on the witness stand she was asked if she had ever gone to Dr. Flint in company with Jack Barrymore, the actor, for treatment. She denied that she had ever been there and when confronted with him in court she denied that she had ever seen him before. denied that she had ever seen him before. Dr. Flint on taking the stand yesterday said that he practiced medicine in this city and that his office was at one time at 61 West Forty-eighth street, in the early part of 1902, he thought.

part of 1902, he thought.

The witness displayed considerable hesitation in saying whether he knew Jack Barrymore, but finally said that he had met him. "Do you know Evelyn Nesbit Thaw by sight?" was the next inquiry. The witness hesitated again and Mr. Jerome added: w her here in court, didn't you?"
'eaid Dr. Flint, "I saw her here in court

Dr. Flint Can't Answer. "Now," went on Mr. Jerome, "at some time in 1901 or 1902 in the city of New York did Evelyn Nesbit Thaw and this John or Jack Barrymore—don't answer this ques-tion, doctor—come together to your office?" Of course Mr. Delmas was up at once with an objection, and as everybody had anticipated, the objection was sustained. Nobody had any idea that Mr. Jerome would be able to get Dr. Flint's testimony before the court, and it was the general notion that he merely wished the jury to get the idea that Dr. Flint's testimony if it had been admitted would have con-tradicted young Mrs. Thaw's declaration that she had never visited his office.

That finished with Dr. Flint and recess was ordered for luncheon.

J. CLINCH SMITH ON THE STAND. Large Crowd in the Court Room to Hear His Testimony.

Things around the court room when the afternoon session opened looked more like the earlier days of the trial. There was a much bigger crowd than there has been since Evelyn Nesbit and Mrs. William Thaw told their stories. Mr. Smith was called to the stand the first thing. He was self-possessed and looked like a man who had seen the world. "He looks like a thoroughbred," was the way a woman expressed it.

Mr. Jerome recalled to Mr. Smith that when he was on the stand the day before he had told how he went to the Madison Square

said. It was about 9:15 o'clock. Thaw came from the Twenty-sixth street elevator. He was accompanied by Thomas McCaleb and Truxten Beale and Mrs. Thaw, although Mr. Smith did not know at he time that the woman in the party was

Mrs. Thaw.

Mr. Jerome told Mr. Smith to describe what he saw after that and repeat any conversation he heard. Mr. Delmas said the question was too broad, involving two subjects. Also what Thaw said or did iects. Also what The shooting was half before the shooting was jects. Also what Thaw said or did an hour and a half before the shooting was immaterial. Mr. Jerome changed the question so that Mr. Smith was asked to tell what he saw Thaw do. Mr. Delmas, who was fighting hard against the admission of any of Mr. Smith's story, objected this time that the question was leading. Mr. Jerome denied that he meant to lead the witness and Justice FitzGerald the witness and Justice FitzGerale "Objection overruled

Thaw Didn't Look at Smith By a series of questions Mr. Jerome got rom Mr. Smith the fact that Thaw, whom

knew, passed him but did not look a n. Nor did he speak. "Mr. Thaw was looking intently to the right as he passed me," said Mr. Smith. "I object to the word 'intently'," said Mr.

"Strike it out," said the Court.
What Thaw looked like an hour and half before the shooting had nothing to do with the case, Mr. Delmas insisted. But the Court pointed out that the examination was part of the prosecution's case in chief and let Mr. Smith say that Thaw was looking over his right shoulder. That meant, as pointed out on the diagram, that was looking in the direction where

was sitting.

Mr. Smith followed with his eyes Thaw and his three companions. Mrs. Thaw, Beale and McCaleb sat down. Thaw did Beale and McCaleb sat down. Thay did not. He walked a short distance toward where Mr. Smith was sitting. Then he stopped and looked over the audience. He looked very intently, Mr. Smith said. Mr. Jerome had him describe on the diagram just where Thaw stood, the direction in which he looked and what he did. Each time Mr. Smith described Thaw as looking in the direction in which White sat, a ring having been made on the diagram to indi-

All this was done against the constant objection of Mr. Delmas. He was fighting every inch. But Mr. Jerome got the witness to tell just what happened. Mr. Delmas protested that the District Attorney was leading the witness and that the ques ons were not material.

After Thaw had stood and looked ove

the audience for a minute or two he walked in the direction of Mr. Smith. As he got to where Mr. Smith sat he recognized him and stopped and spoke to him, "He stopped and spoke stopped and spoke to me," said Mr.
. "The first words that Thaw said to Smith. me were 'That is funny, isn't it?' 'What is that?' I said. 'Why,' he said, 'I only could get three seats on the roof here to-night.' 'How is that?' I said. 'Then you only have an admission for yourself.' 'Yes,' said

"I said 'What are you going to do?' and hen he said 'I am going to stroll to-night I said 'Oh, are you going to stroll?' 'Yes,' he said, and then he stood in front of me looking over the audience, here and there. "I move to strike out 'He stopped and poke to me,'" said Mr. Delmas.
"Motion denied," replied Justice Fitz-Gerald.

I move to strike out 'and he stood in front of me, looking about the audience here and there?'" said Mr. Delmas. "Motion denied," repeated Justice Fitz-

Mr. Jerome asked if there was any further conversation between the witness and Thaw. Mr. Delmas bobbed up with another objection that the question was too broad and that it had nothing to do with the issues of the case.

of the case.
"Same ruling," said Justice FitzGerald.
Thaw stood looking over the audience for a few moments. Then he turned to Mr.
Smith. There was a vacant seat next to

Thaw's Talk With Smith

"Thaw said: 'Whose seat is that down there by you'?" said Mr. Smith going on with his story. "I said: 'I don't know, I came along here a few minutes ago and I thought these two seats looked pretty good seats to me to see what was going on, and I sat down in one of them. He said: 'Yes, they are good seats. If you don't mind I will sit down here by you for a while.'
"'All right,' I said, 'sit down.' He sat

down and proffered me a cigar. No, thanks,' I said, and he said Take one,' offering me one. 'No,' I said. 'I don't smoke cigars, and he said: 'How is that, don't you smoke at all?' and I said 'No, I am a very light smoker, and while I smoke cigarettes, not smoker, and while I smoke cigarettes, not many of them. I do not smoke cigares.

"He said 'Take a cigarette,' pulling out a cigarette case and offering me a cigarette. I took one. I said. I thank you. He struck a match and lit my cigarette and afterward lit his own cigar, and after two or three puffs of the cigar said. How do you like the play? I said I did not care for the play so far as I had seen it. I thought it was rather slow, that I didn't think it was the kind of play needed on a roof garden.

"Well,' he says, 'it is very different from the plays you usually see on a roof garden.' Yes,' said I. 'The truth of the matter is,' he said, 'we see so much variety on the

he said, 'we see so much variety on the roof gardens that it is rather a relief to see a play of this kind. I would not be surprised but what it would be a success.' I said I doubted it very much. 'I don't think it will be a great success, a play like hink it will be a great success—a play like

"After a few moments he said, 'What are you doing in Wall Street nowadays? Are you speculating at all?' 'No,' I said, 'I don't speculate at all. I haven't bought any stocks in some time.' I said, 'Why, do you know anything specially good down there at the present time?' He said he there at the present time? He said he thought there were good chances in the copper stocks. He mentioned Amalgamated Copper and one other that I don't recall. And then he mentioned that he thought the steel stocks were very low said he could never understand why prices of steel stocks were kept down where they were.

Talks of Stock Trading

"There is a company,' he said, 'doing an enormous business and paying large dividends and doing more business than they have ever done before, and yet the price is kept down.' And he said he thought very well of them. 'In fact,' he said, 'if I had any money I would put it all in steels and coppers, especially the copper,' because he thought that anybody who did that would make a lot of money. 'Yes,' I said, 'I make a lot of money. Yes, I said, I thought very well of the steel stocks myself, but I did not know much about coppers, but I hear that they were very good

"After that he said, 'What are you doing this summer?' 'Why,' I said, 'I am going abroad this summer.' He said, 'What ship are you going on?' I said, 'I am going on the Deutschland.' He said he didn't care for that ship. 'No.' I said, 'there are a great many people who don't care for the Deutschland.' He said she broke down too much. 'Yes,' I said. 'I know that is the idea of a great many people, but I liked it idea of a great many people, but I liked it because it was very fast, and go over the ocean very quick; and besides that I knew the captain ve y well and he made it very pleasant for me and also for my wife, and

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Garden roof the night his brother-in-law was killed. Mr. Smith showed on the diagram of the roof where he sat. He had a seat back of the orchestra chairs and about midway between where Thaw took his party and where White sat.

Thaw came in and passed him, Mr. Smith that he was going on the Amerika because he wanted a large suite where he could have his meals served in a private room. Mr.

Wanted Smith to Meet a Brunette "Then he said, 'Are you on to New York alone?' Yes,' I said. 'I left my wife in Paris going on a motor trip. But I am going back soon.' He said, 'Are you very much married?' 'Why, what do you mean?' I said. 'Well,' he said, 'are you above meeting a very nice girl?' 'Am I above meeting a very nice girl?' I said. 'Why, what girl do you mean? Is she here on the roof to-night?'
"'Oh, no. she is not here on the roof to-

Oh, no, she is not here on the roof night; but you know I expect to go away, and he said. I am very glad to give you her address or arrange with you to meet her, if

"Well, I said, 'what kind of a looking girl is she?' He said, 'She is a buxom prunette, not particularly good looking, but a very nice girl.'" but a very nice girl."

There was a titter in the court room at this. Thaw smiled and spoke to Dr. Brit ton D. Evans. Then Evans smiled. Mr ith went on:
'Oh,' I said, 'I am very much obliged

"Oh, I said, I am very much congent to you, but I wouldn't bother about it.' Well,' he said, 'I am very sorry, because I am sure she would like to know you.'

"He then said, 'Do you know who I have got in my party to-night?" 'Why,' I said, 'you were with Mr. Truxtun Beale and Mr. Thomas McCaleb.' 'Yes,' he said, 'do you know them?' 'Well,' I said, 'I have known

w them?' 'Well,' I said, 'I have kn McCaleb for several years, but Beale I only met this afternoon at my club.' I said, 'Mr. McCaleb and I were talking to-gether at the club and Mr. Beale came in and accosted Mr. McCaleb and sat down by him, and Mr. McCaleb introduced me to him, and we sat there and talked for some little time. That is the first time I ever knew Truxtun Beale.'
"'Well,' he said, 'that is a funny thing

that you have never met Truxtun Beale before. You know he is a very prominent man and a very fine man. I admire him very much. 'Yes.' I said, 'I have often heard of Mr. Beale, but I never happened to meet him before this afternoon. "He said, 'Don't you remember an oc-currence that took place several years ago, nite a great many years ago, where there ere two men and a woman, and one of the men-oh, well,' he says, 'no matter, you wouldn't remember anything about that. you were entirely too young in those days

As to the Witness's Age.

you wouldn't remember anything of

"I said, 'What case do you mean? What case do you recall? 'Oh,' he says, 'no matter; you were too young in those days to remember anything about it.' 'Well,' I perhaps I am not as young as you am. He says, How old are you I said, 'how old do you think I am' Well, he looked at me and he said, 'I don't know: I would put you down at 32 or 33.'
Well, I said, 'you are like everybody else.
You think I am a great deal younger man
than I really am.' Why,' he said, 'how old are you?'
"Well,' I said, 'I have some time since

passed my fiftieth birthday passed my fiftieth birthday.

Thaw was astonished, and nobody in the court room blamed him. That was a year ago, and Mr. Smith does not look over 40 now. He smiled a little as he explained how Thaw said, "What! I never would have pelieved it. You surprise me. "You are just like everybody else," Mr. smith said he told Thaw. Then Thaw got up. Again his eyes wen

"After looking there for a few minutes Thaw said," according to Mr. Smith, "Excuse me. I am going down this way.' He motioned toward the Madison avenue aisle, which led to the entrance to the elevator the Twenty-sixth street side. White ting on that side of the building.
"He looked intently that way," Mr. Smith

Move to strike 'intently' out," said Mr elmas. It was done.
"Thaw walked to the entrance to the elevator and turned around and looked in the same direction again."
"When you say in the same direction, indi-

The place he subsequently shot Mr. White, right here," said Mr. Smith, pointing to the mark on the diagram where other witnesses have sworn White sat that night. After that he walked back toward where Mr. Smith was sitting. All the time he kept looking where White sat. As he passed Mr. Smith he nodded and smiled pleasantly He walked over to where his wife was sitting. McCaleb got up and gave him a seat. Then McCaleb came over and joined Mr. Smith. He had talked with McCaleb for about three or four minutes when Thaw left his seat and came over toward them. As he passed McCaleb got up and Thaw put his hands on his shoulders. He said: his hands on his shoulders. He said:
"Oh, don't get up, McCaleb; I am not going to sit down. I am going down here."
He pointed toward where he had been before. In a minute McCaleb got up and joined Mrs. Thaw.
"I looked at Mr. Thaw again," said Mr. Smith. "He was proceeding down the aisie, looking over his left shoulder (that was in the direction of White). He went down to the entrance and stood looking back for a few moments, in the direction

down to the entrance and stood looking back for a few moments, in the direction where he subsequently shot Mr. White."

Then Thaw turned again and left Mr. Smith's view. Mr. Smith caught sight of him in a few minutes and then he was looking up toward the gallery. Mr. Thaw saw him going up the stairs of the gallery. In two or three minutes he came down. Then he came back along the aisle through which he had walked before and kept looking in he had walked before and kept looking in the direction where White sat. "As he was coming down the steps," said

Mr. Smith, "he was looking in the direction of where he subsequently shot Mr. White. He passed me and smiled and nodded very He passed me and smiled and nodded very pleasantly and went back to his seat. When he arrived at his seats the whole party began to get up and put on their things, apparently to go out. Mrs. Thaw and Mr. McCaleb led the way going out. Mr. Thaw and Mr. Truxtun Beale were behind. Mr. Thaw was looking over his left shoulder (that would be in White's direction), and the direction of the entrance. In the meantime a gentleman friend of mine had joined the direction of the entrance. In the mean-time a gentleman friend of mine had joined me and sat down beside me, an acquaintance of Mr. Beale, and Mr. Beale stopped and spoke to him as well as myself. Mr. Thaw continued down the aisle. In a few minutes —Mr. Beale only spoke a few moments and passed on—and the very next moment I saw Mrs. Thaw and Mr. McCaleb near the eaw Mrs. Thaw and Mr. McCaleb near the elevator, Mrs. Thaw looking—

"You say Mr. Benle stopped to talk to you?" said Mr. Jerome.

"He stopped to talk with a friend of mine," said Mr Smith. "He stood directly in front just for a few moments and then

went on, and as he passed by I saw Mrs Thaw at the entrance."

Mr. Delmas objected to a description of what Mrs. Thaw was doing and Mr. Smith was cautioned only to tell what Thaw did.

The Shooting. "I was going to say," said Mr. Smith,

"at that moment, which was a few moments after Mr. Beale stopped, I heard three pistol shots between me and the entrance. I saw a black cloud of smoke. I jumped to my feet at once. This black cloud of smoke passed away slowly and I saw Mr. Thaw aiming down to the ground with a pistol in his hand. I said: 'What is He was not allowed to tell what he said but he went immediately to the entrance. He didn't have any conversation with Thaw, but he went over and looked at the

O. You went over to look where the man lay dead? A. Yes Q. Let me ask ; ou: Did you know Mr. White was there that evening? A. I did not.

"I saw a man lying down on the ground face up," said Mr. Smith, dramatically "His feet were curled up to the body, his arms stretched over his head, and every thing looked absolutely black around his I saw that he was dressed in a very suit of evening clothes. I presume need. I saw that he was dressed in a very nice suit of evening clothes. I presume the powder blackened his face and head so that it was beyond recognition. He was my brother-in-law, but I did not recognize him. As I was looking at the body and trying to recognize it they brought a tablecloth or a sheet and they put it over

him."
"Then you left the building without

knowing that Stanford White had been shot?" said Mr. Jerome.

"I asked several people and they did not know," said Mr. Smith.

"Then did you leave the building?"

"Yes, I left the building without knowing who the person was who had been shot."

"The witness is yours," said Mr. Jerome, sitting down.

sitting down. Delmas Begins Cross-Examination. Mr. Debuas was standing near the witness when Mr. Jerome finished and he began immediately his cross-examination. Dolmas fired his questions rapidly and in a voice that seemed unnecessarily But he didn't worry Mr. Smith, wh very polite in everything he did.

Q. When did you next see Stanford White after the event you have described? A body of Stanford White?
Q. The body, what was left of Stanford A. The next day Q. Where? A. At my sister's house, Gram-

It was about noon and the autopsy had been performed then. He was not present

Q. Where did you go from the Garden that night? A. I went after I left the Gar-Q. Certainly, after you left, where did you o? A. I strolled up Broadway.
Q. When did you learn that it was Stanford White that had been killed there that night?

A. I saw it in an extra that was published

and brought to me.

his father? A. Yes.

Q. I am asking you when, not how? A. I should think perhaps one-half to three Quarters of an hour after.
Q. About what time of the night then? A. I should say it was about half-past 11 Q. Where did you then go? A. I went to my sister's house to see if I could be of any

Q. Did you remain there during the night? O. Where did you then go? A. Up Madison Square Roof Garden to see if I could be of any assistance to my nephew, young Mr. White, whom I had subsequently learned had gone for the body of his father.

Q. When did you learn that? A. Ten or ffreen minutes after. Q. After what? A. After the time that I vent to my sister's house. Q. Then about what hour of the night? A uld say it was about a quarter to 12. Q. At a quarter to 12 you learned that your phew had gone to the roof garden to see

Mr. Delmas made a point of showing that Mr. Smith got from the servants at the house the information that his sister, Mrs. White, "and Mr. White's aged mother" were in the country.

Another Wrangle of the Lawyers. Mr. Delmas dropped that question and got Mr. Smith to describe again the relative position of the Thaw party to him on the roof garden. The result was a wrangle between Mr. Jerome and Mr. Delmas one accusing the other of making incorrect statements about the evidence part of the conversation Mr. with Thaw the latter sat on his right O When Mr. Thaw turned and left you

he first time, as I understand you, he walked o your right in the aisle in front of these round things [which represent tables indicated or diagram ?? A. Yes. Q. And at that time when he was so walking had his eyes intently fixed upon the audice? A. That is true.

You saw his eyes? A. I did. Distinctly? A. I saw him looking. Q. Did you see his eyes? A. How could see his eves? That was what Mr. Delmas wanted to

I could not see his eyes," explained "You could not see his eyes," explained r. Smith "I saw him looking."
"You could see him looking intently over e audience?" inquired Mr. Delmas.
"That is so," replied Mr. Smith.
"When you could not see his eyes at all?"

Delmas asked Mr. Smith where he saw Thaw after the latter again came down the stairs leading to the gallery. "All the way downstairs," said Mr. Smith slowly, while the room was very quiet; "he was looking intently toward the place where he subsequently shot Stanford

Mr. Smith couldn't say exactly how far he was from Thaw, but he thought it was about thirty feet. The stairway projected out from the gallery so Mr. Smith o see plainly enough. Thaw was on stairway about eight or ten steps from the floor when Mr. Smith saw him walking down.

Thaw's "Interest" fire As he stood then on the eighth or tenth

step? A. He did not stand. Q. As he was passing, if you please, over hose steps you saw his face? A. Yes. Q. You saw his eyes? A. Yes. Q. You saw the direction of his gaze and saw that it was an intense gaze in the same direction you have mentioned? A. He was looking in that direction.

Q. Was his gaze intense? A. I do not know that it was absolutely intense; he was ooking over in that direction. Q. Well, was his gaze intense? A. I should it was, rather Q. It was rather intense? A. Yes. Mr. Smith said he first told his lawyer,

Frank E. Blackwell, the story as he related t on the stand yesterday. That was two

three days after the shooting.

or three days after the shooting.

"Did you narrate it to him as you have stated it now?" asked Mr. Delmas.

"Absolutely," replied Mr. Smith. firmly.

"Absolutely?" repeated Mr. Delmas.

"Absolutely," said Mr. Smith. O. Do you know of any communication et ween Mr. Black well and Mr. Jerome subsequent to that? A. Before I went to Europe I told my lawyer—I told Mr. Blackwell that Mr.

Thaw on that night was drunk, intoxicated, did not know what he was about. "I am not asking you what you told your awyer. Answer my question," stormed Mr. Delmas. Mr. Smith said he knew nothing of any

communication between Mr. Jerome and Mr. Blackwell. Subsequently he got word from Mr. Blackwell about being a witness. That was just before his last trip over, a short time ago. He didn't know until then that he was wanted as a witness nor had he unication with the District Attor Recalled by Jerome

A few days before he left Paris he got a cable despatch from Mr. Jerome. It was on the strength of this message that he came back. Mr. Delmas wanted to know a lot about the despatch.

Q. Did that telegram call you here? A. I Q. Well, did that telegram call you here? Mr. Jerome objected to this method of roving the contents of a written instru-nent and added: "I think what is sauce for the goose is also sauce for the gander, if Mr. Delmas will pardon me describing it

by that picturesque term."

Mr. Delmas: "It all depends upon which the goose."
Mr. Jerome: "Well, I will confess that you are the gander.' Q. By Mr. Delmas-Mr. Smith, have you got that cablegram? A. Not here.
Q. Where is it? A. I think I have it in my

Q. Will you kindly produce it. A. If I can. Will you kindly produce it at the next meeting of the court? A. Certainly. As soon as he got the cable despatch, the witness said, he took the first steamer over. He saw Assistant District Attorney Garvan at once. That was last ney Garvan a Saturday night

Q. And did you make to Mr. Garvan the elfsame statement as to what you knew of the transactions of the defendant Thaw on that night that you had made to your attorney, Mr. Blackwell? A. Absolutely

Absolutely? A. Yes. sir. Q. Nothing new in it? A. No. Q. Nothing additional? A. Nothing.

Quick Hait at Beale's Name. Smith met Truxtun Beale at the Union Tub the afternoon of the shooting.
"That's all," said Mr. Delmas suddenly.
Mr. Jerome wanted to know if it would be all right for Mr. Smith to send the cable to the Court. Mr. Delmas said it wouldn't and Mr. Smith replied that he would bring this morning.

Photographer Eickemeyer Called. Rudolph Eickemeyer. a photographer,

Drop in on your way from business and look over my splendid lines of Office Furniture. Places you under no obligations to buy.

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was next called by Mr. Jerome. He has been a professional photographer for twenty-four years. Mr. Jerome got hi twenty-four years. Mr. Jerome got him to identify a negative and a photograph. The negative had been broken, and as Mr. Eickemeyer held three pieces of glass up to the window it was not hard to see that it was the negative of the last page of the affidavit which the prosecution says was made by Evelyn Nesbit in Abe Hummel's office. Mr. Eickemeyer said after a lot of argument that the photograph was from rgument that the photograph was from

e negative. Then Mr. Jerome asked him about three ther negatives. They were, according to the prosecution, the negatives of the phographs of Evelyn Nesbit taken in the I graphs of Evelyn Nesbit taken in the East Twenty-second street studio the day before, as she says, she was ravished by Stanford White. Young Mrs. Thaw on the stand said she could not fix the date of the photographs, but she knew it was the next night that she went with White from the Casino Theatre to the studio. Although it has not been introduced in evidence it is known that the prosecution believes that the day after the photographs were taken was election day, 1901, and that White was not at the studio that night but at the Madison Square Garden tower giving a dinner, which lasted very late.

which lasted very late.

Mr. Elckemeyer said he had been connected with Campbell's studio for a number of years and it was the custom there to number photographic negatives. Mr. De mas objected to all questions along this lir

Mr. Delmas Objects to Dates.

"If your Honor please there is evidence which has been brought out on cross-examination for the purpose of testing the veracity of the witness, and for that purpose alone, as your Honor ruled and as the District Attorney claimed, in which certain statements were made with relation to these photographs and the purpose of the these photographs, and the purpose of the question would seem to be to contradict that statement and, therefore, under the ruling which your Honor has repeatedly made it is not proper rebuttal."

"You will remember that Mrs. Thaw was not able to fix with entire definiteness the time these photographs of her were taken. I desire to fix the very day on which the photographs were taken," said Mr. Jerome, picking up the record of the case.

"And do you claim it is material?" asked Justice FitzGerald.

Mr. Jerome opened the record and began

Mr. Delmas-If I get the drift of the learned District Attorney's remarks, it is that he currence of these facts by some rule of law or of evidence. I will state to him now that we will have no objection whatever and will not invoke that rule if he desires to probe into the occurrence of the facts narrated So far as we are concerned he is at perfec "When Mr. Delmas made that statement

said Mr. Jerome, closing the book, "I had not investigated the facts from that point of view, and now in acceptance of the waiver I ask permission to prove the exact date that those photographs were Miss Nesbit has testified that she was ravished and drugged.
to fix that exact date and to prov on the following night Stanford was not where she said he was." Mr. Jerome spoke slowly, emphazising ch word. Mr. Delmas stood up. "If your Honor please, the learned Dis-"If your Honor please, the learned District Attorney has heard the rulings your Honor has already made twice in this case,

thing that he cannot introduce that proof, "I know that I cannot introduce it without the consent of the defendant," replied Mr. Jerome, and again he read Mr. Delmas's statement. He added: "It is on that invitation that I seek to do it. I realize that if objection is made to it it must be sustained. If objection is made I must

Delmas Sticks to His Objection "Your Honor has heard my objection," said Mr. Delmas just above a whisper.
"Objection sustained," said the Court

That is all, Mr. Eickemeyer," said Mr. Jerome, picking up his photographic plates, "unless Mr. Delmas has some questions to ask."
"I have no questions," said Mr. Delmas, and as Mr. Eickemeyer left Mr. Delmas

"A statement has been made by the learned District Attorney here a moment ago as to what he proposed to do. Those statements have been made in the presence of the jury; they have been made with a great deal of emphasis, your Honor, and I ask your Honor to strike these remarks

the record as improper and unwarranted 'I go further than that," said Mr. Jerome. "My remarks were entirely addressed to the Court on a proposition of law, and I ask your Honor to go further than that. There is no need of striking them from the record because they are not a part of the record; they are for the information of the Court. And I ask your Honor now to advise the jury that the question of whether or not this girl was ravished by Stanford White is not an issue in this case." Mr. Delmas made another protest, and ustice FitzGerald said:

"I will say to the jury that they are not to consider anything of any kind or char-

POSTUM. COFFEE COMPLEXION Eastly Cleared Up by Simple Means.

The coffee habit often causes sallowness long before the cause is suspected. Then the coffee user may be willing to give up the harmful indulgence. The experience of a Penn. lady shows how easily this may be done. She says:

"I have suffered from constipation and stomach trouble since a child, when headaches were so severe that I was prevented from studying at school. Since reaching adult age, I have been, until recently, frequently in great pain from ulceration of the stomach and had grown wretchedly thin. "My complexion had become very sallow and my stomach was an unalleviated punishment to me. For years, we have always had some kind of a cathartic in the house. which I took before retiring, as a matter of regular routine, using one kind until i

began to lose its effect, and then another. "About six weeks ago my husband brought home a package of Postum Food Coffee insisting that I give up the old kind and try the new. It seemed to be impossible to quit drinking coffee, although I knew it was Ljuring my 'lealth.

"However, after reading the little book. The Road to Wellville,' which I found in the package, I concluded to give Postum a fair trial. "For the past six weeks I have used

three times a day and I gratefully testify that my stomach trouble and constipation have already entirely left me. "I am growing plumper and rounder is figure and my complexion is clearing up beautifully. You cannot imagine how good it seems not to have that distressing pain after each meal! I have thrown out all the medicine bottles for Nature's own medicine, right food and Postum Food have made me a well woman." Name given by Postum Co., Battle Creek, Mich. "There's a reason." Read the famous little book, "The Road to Wellville," in

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21/2x3 yds...... 50.00 to 275.00 each 21/2x31/2 yds 57.50 to 325.00 each 23/2x4 yds 65.00 to 250.00 each yds...... 85.00 to 340.00 each Napkins to match 37.50 to 100.00

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acter in this case except the evidence ad-duced under oath."

Witnesses Yet to Be Called. There was still an hour left before ad-ournment, but Mr. Jerome said that the so that I don't know exactly where at in the order of proof." He could say that there would probably be only two more witnesses, Abe Hummel and a clerk on the question of getting in evidence affidavit which has been in dispute. would take time to prepare the hpyothetical question for his experts, but he had the facts together and all that would be necessary would be for him to dictate the

Then the question would be printed and everybody could have a copy of it. It would take about a day, he said, with he direct examination of the experts, but he couldn't tell how long the cross-examination of them would take... As to summing up it was finally decided that each side shall have a day each. The indications are that the trial will last far nto next week.

Comptroller Metz will lay before the Board of Estimate on Friday a request he has received from District Attorney Jerome for \$15,000 to pay the fees of the alienists who have been retained in the "Of course the demand will have to be complied with," said Mr. Metz. "and it will be the first only of many other similar applications which will come from the District Attorney before this trial is paid for. From what I hear it is likely to cost

Jerome Asks \$15,000 for Allenista.

the city a larger sum than any previous John Jameson Three * Star Whiskey

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BERRIEN-CURTIS.-On Tuesday, March 12, at 154 Coleman st., Bridgeport, Conn., Gladys Hawthorne, daughter of Mr. and Mrs John Newton, Mass.

OWER-GILLMORE.-On Tuesday, March 12. 1907, at the residence of the bride's mother. Mrs. E. D. Gillmore, 233 West 107th st., New York city, Josephine Louise Gillmore to Mr. John I. Brower of Plainfield, N. J., by the Rev. John P. Peters, D. D.

DIED.

please copy

DOUBLEDAY.—Suddenly, Tuesday, March 12, as Washington, D. C., Mary Doubleday, wife of the late Brevet Major-General Abner Doubleds; U. S. A. Notice of funeral hereafter. Baltimore papers

FARNUM .- At Pasadena, Cal., March 10, after a lingering filness, Caroline Sutton, beloved wife of Charles H. Farnum. Interment at Middlebury, Vt., at convenience of GELLATLY.-Suddenly, Monday, March 11, 1907. Anna Burt, wife of the late William A. Gellati

Funeral services at the residence of her son.
Frank E. Geliatly, 240 Farrell av., South
Orange, N. J., on Thursday afternoon, March 14. on arrival of 1:30 train on D. L. & W. from New York. Carriages will be in waiting at Mountain station. Interment private. MACNAUGHTAN .- On Monday, at Essex Fells N. J., infant son of Allan and Myra Macnaughtan

uneral services at his late residence. "To House," Grymes Hill, Staten Island, Thurs day afternoon. March 14, at 5 o'clock Cariages will meet boat leaving New York 8, 5.2 STEVENS.-On Sunday morning, March 10. 19

Daniel T. Stevens.
Funcral services will be held at his late res dence, the Chatsworth, 72d st. and side Drive, on Wednesday afternoon. 13, 1907, at 4 o'clock. Interment at Wo at convenience of family. Schoharie, Suddian county, N. Y., and Williamsport, Pa. papers please copy

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